



MEMO

To: Judge to whom the indicated case is assigned.

From: David R. Herndon, District Judge United States District Court for the Southern District of Illinois

Re: In re Yasmin and Yaz, MDL Litigation No 2100
Member case: Walter Hamilton and Dianna Hamilton, Individually and as Legal Guardians of the Person and Estate of Kaitlin Hamilton, an incapacitated Person v. Bayer ILSD case 11-13465

Date: December 7, 2018

This MDL action is being transferred following the completion of common discovery and some case specific discovery and depositions. An aggressive settlement mediation was attempted by the MDL Court appointed special master for mediation, Randi Ellis of Baton Rouge, LA 225-803-1413. Ms. Ellis can supply a great deal of information about the case and the settlement process if requested. It is recommended that Ms. Ellis be allowed to continue in her role as special master in an effort to effectuate a settlement after transfer.

The special master and this judge held two significant mediation sessions with the parties, one of which was very recently. Both sides of this litigation have negotiated in good faith. The special master conducted many more mediation sessions with both parties.

In addition to the original product liability case against the pharmaceutical company, there is an intervention action by the medical insurance provider which pursues the issue of whether they should have paid under the policy. One aspect of the product liability case is the legal effect of the treating physicians' actions and whether, if any of them committed malpractice, their civil wrong intervenes the pharmaceutical company's product liability. The question which remains to be decided is whether, under Oklahoma law, the evidence is relevant to the product case so that the jury will be allowed to know of the issue.

Memos regarding the work done in the file, prepared by counsel for both parties, submitted simultaneously with the transfer order will provide substantial background information as well.